

SPECIAL CITY COUNCIL MEETING  
MARCH 2, 1987

PRESENT

Ruth Hansen  
Craig Greathouse  
Don Dafoe  
David Church  
Neil Dutson  
Gayle Bunker

Mayor  
Council Member  
Council Member  
Council Member  
Council Member  
Council Member

ABSENT

None

OTHERS PRESENT

Jim Allan  
Dorothy Jeffery  
Richard Waddingham  
Bryce Ashby  
Roger Young  
Max Wood  
Lamond Palmer  
Neil Forster  
Doyle Bender  
Susan Callister  
Lyndon Callister  
Virginia Taylor  
Rita Byrd  
Rob Hender  
Melinda K. Turner  
Thorpe Waddingham

City Manager  
City Recorder  
City Attorney  
Fire Chief  
Chief of Police  
Parks & Recreation Director  
Parks Superintendent  
Public Works Director  
City Treasurer  
Assistant Recorder  
City Resident  
City Clerk  
Billing Clerk  
KNAK, Radio Station  
Stockman's Lounge  
Attorney

Mayor Hansen called the meeting to order at 7:00 p.m. Dorothy Jeffery, City Recorder, acted as secretary. Mayor Hansen stated that notice of the meeting time, place and agenda was posted at the principal office of the governing body located at 76 North 200 West and was provided to the Millard County Chronicle/Progress, the local radio station, KNAK, and to each member of the City Council by personal delivery two days prior to the meeting.

CHIEF ROGER YOUNG: CLASS "C" BEER LICENSE FOR STOCKMAN'S LOUNGE

Mayor Hansen asked Chief Roger Young to present a request to approve a Class "C" Beer License for the Stockman's Lounge.

Chief Roger Young said that Donald A. Daly is the new owner and Melinda K. Turner will be the manager of the Stockman's Lounge.

Chief Young said that a background check has been conducted on Mr. Daly and Mrs. Turner and recommended that the Stockman's Lounge be granted a Class "C" Beer License.

Following a brief discussion, Council Member Gayle Bunker MOVED to approve a Class "C" Beer License for the Stockman's Lounge with Donald A. Daly as the owner and Melinda K. Turner as the manager. The motion was SECONDED by Council Member David Church. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being none, she called for a vote. The motion passed unanimously.

CITY MANAGER JIM ALLAN: DELTA CITY FUEL TAX

Mayor Hansen asked City Manager Jim Allan to discuss with the Council Delta City Fuel Tax.

City Manager Jim Allan discussed with the Council an issue regarding Rocking "R" Oil Company, which is now owned by Cardwell Distributing, and Utah State Tax Commission concerning the Sale and storage of gasoline and payment of fuel tax. He said that the State Tax Commission is questioning whether or not Delta City has proper control over gas dispensed for City owned vehicles. He pointed out that the City is presently using a key lock system for leaded fuel.

Mr. Allan reviewed a letter received from the Utah State Tax Commission 2-10-87, which states that numerous sales by Rocking "R" Oil Company to Delta City do not meet the requirements of Motor Fuel Regulation number four. It also states that for a sale to qualify on a Schedule G item, the sale must constitute a single delivery of at least 750 gallons into a tank owned by a government entity or into a tank which the government entity has 100% control and ownership of all fuel going into and out of the tank.

Mr. Allan said that an informal meeting with the State Tax Commission is to be held to address the above mentioned letter, in which Mayor Hansen, Attorney Thorpe Waddingham, and Jim Allan will attend.

Mayor Hansen then requested Attorney Thorpe Waddingham to address the Council regarding the fuel tax issue.

Mr. Waddingham reviewed Statute 41-11-6 of Utah Code Annotated which states the following:

"It is the purpose and intent of the chapter to impose a levy upon the sale or use of motor vehicle fuel, including political subdivision, in quantities of 750 gallons or less.

Mr. Waddingham said that the Tax Commission, in accordance with its statutory authority, promulgated rules and regulations

necessary to enforce 41-11-6. The regulations specify that the gasoline must be delivered in bulk form to a tank owned by the governmental agency, or a tank over which the government agency has 100% control and ownership of all fuel going into and out of the tank. The regulations further defines each delivery as a sale with certain exceptions.

In Mr. Waddingham's judgement the Tax Commission regulations were passed without taking into account the use of a key lock system for dispensing fuel. He said that the Commission has the power and authority to change its present regulations and also has the right to grant relief when there has been substantial compliance with the intent of the statute and regulations.

Mr. Waddingham feels that the key lock system is a better system, in terms of controlling the unauthorized use of gas delivered to a municipality, over a system imposed by the existing Tax Commission regulation. He explained that those City departments using the key lock system maintain accountability through their own records and those of the bulk supplier. These departments have keys assigned to employees who account for the gasoline that is used by posting usage on a log sheet. The bulk supplier has a record of the amount drawn and the user who is identified by the assigned key. A tank owned by Delta City from which fuel is dispensed using only a manual lock and log sheet does not provide a good record of control as now provided. However, the language in the regulation is that the City must own the container or control 100% of the fuel. Presently, the City neither owns the container nor controls all the fuel, but the City is provided an undefined quantity of space in a large storage tank, which Delta City employees have the right to use by the use of a key.

Mr. Waddingham feels there is a good logical argument that Delta City substantially complies with the intent of the statute.

Mr. Waddingham recommends that Delta City approach the Tax Commission Auditor(s), ask for consideration in this matter, and, if the auditor(s) refuse, file a petition with the State Tax Commission asking for relief based on substantial compliance with the statute.

Mr. Waddingham reviewed facts pertaining to a previous denial of exemption by the Utah State Tax Commission and some of the facts that had taken place since such occurrence. His remarks were directed specifically to the question of who would be responsible for payment of any taxes, penalty and interest which might be payable by reason of the present claim of the tax commission. The statute seems to place initial responsibility for payment on the distributor. However, other facts, including the previous claim for and payment of taxes, penalty and interest by Delta City causes this question to get into a "gray area." Mr. Waddingham stated that he had not yet briefed this aspect of the problem but felt that he had obligation to point out that responsibility for payment of liability was in doubt. He

expressed the hope that this matter would not result in an adversary relationship between the City and Rocking "R" Oil Company.

Mr. Waddingham then explained that for a sale to be exempt, it must meet all of the following qualifications:

1. Must be a sale of 750 gallons or more.
2. Delivery must be made into a tank owned by the governmental agency or the tank of which the agency has 100% control and ownership of all fuel going into and out of the tank.

Thorpe Waddingham will contact the State Auditor and set up a meeting at the earliest date, at which he, Mayor Hansen, and Jim Allan will attend.

#### BUDGET WORK SESSION FOR DELTA CITY FY1987-88 BUDGET

Mayor Hansen asked City Manager Jim Allan to lead the Council in the budget work session and review the Delta City's FY 1987-88 budget proposal concepts for the General Fund.

Mr. Allan prefaced the discussion with the procedure on how to evaluate what was to be discussed, i.e. review of projected revenues and estimated expenditures, presentation of the summary budgets for each department, and obtaining guidance from the City Council on possible service and funding levels to be achieved.

It was stated that it was necessary to evaluate alternate levels of services, to establish priorities for those services to be provided, and to focus available resources on adjusted service levels.

Mr. Allan presented the revenue and expenditure budget concepts and requested that each department head review what impact the budget concept would have on their individual budgets. The following proposed revenues and expenditures were discussed:

SUBJECT: Revenue Summary  
FY 1987-1988

Forecast 1  
Proj. 1988

Forecast 2  
Proj. 1988

TAXES

General Property Tax	109,330	112,890
Delinquent Prior Year	5,512	5,512
General Sales and Use Tax	204,765	218,570
Franchise Tax	82,418	109,967
TOTAL:	402,025	446,939

LICENSES

Business Licenses & Permits	17,891	17,891
Building & Equipment Permits	5,234	5,234
Animal Licenses & Fees	1,316	1,949
Off Site Improvement Permits	300	300
TOTAL:	24,741	25,374

INTERGOVERNMENTAL

Fed. Alcohol/Drug Hwy Safety	-0-	-0-
Federal Shared Revenue	-0-	-0-
State Grants	-0-	2,000
Class C Road Fund Allotmt	45,879	48,480
State Liquor Fund Allotmt	9,000	11,000
County Fire Dept. Subsidy	4,200	5,000
TOTAL:	59,079	66,480

CHARGES FOR SERVICES

Crossing Guard Reimbursemt	1,400	1,400
Parks & Recreation Fees	33,855/-0-	38,000/-0-
Airport Fees, Lease & Rental	4,680	6,500
Airport Fuel Sales	535	500
Filing & Chkg Bldg Plan Fees	-	-
Irrigation Fees	1,702	1,702
Road Encroachment Fees	-	1,000
Zoning/Subdiv. Processg Fees	-	-
Solid Waste/Landfill Fees	54,450	54,450
TOTAL:	96,622/62,767	103,552/65,552

FINES AND FORFEITURES

Court Fines	11,295	16,943
Bail Forfeitures	5,536	8,304
Bail on Traffic Citations	-	-
Small Claims Filing Fees	380	380
Library Fines & Fees	2,000	2,826
TOTAL:	19,211	28,453

MISCELLANEOUS

Interest Earnings	4,725	4,725
IPA Impact Allev. Funds	-0-	-0-
Sale of Fixed Assets/Matls	-0-	-0-
Sundry	5,200	5,200
Appropriated Fund	-0-	-0-
TOTAL:	9,925	9,925


GRAND TOTAL:	611,603/577,748	680,723/642,723
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SUBJECT: Expenditure Summary for Fiscal Year 1988  
3-2-87

<u>DEPARTMENT</u>	<u>1987 BUDGET</u>	<u>1988 BUDGET</u>	<u>% CHANGE</u>
Mayor/City Council	29,556	20,940/17,940	-29%/-39%
Judicial	7,456	7,805	+ 5%
City Manager	42,146	34,830/17,416	-17%/-59%
Treasurer	27,455	26,578	- 3%
Recorder	36,096	29,623	- 18%
City Attorney	81,536	49,100/38,771	-40%/-52%
City Hall	148,777	97,575/74,400	-35%/-50%
Planning	2,100	-0-	-100%
Police Department	354,532	240,820/164,220	-32%/-54%
Fire Department	29,801	-0-	-100%
Building Inspector	7,860	3,750	- 52%
Streets	176,759	90,670/61,476	-49%/-65%
Solid Waste	69,945	54,450	- 22%
Engineering	4,200	-0-/2,400	-100%/-43%
Park & Park Areas	108,688	63,549/16,851	-42%/-85%
Recreation	72,324	46,322/-0-	-36%/100%
Celebrations	7,770	5,000	- 36%
Library	46,186	36,447	- 21%
Intergovernmental	13,303	-0-	-100%
Trans. to other funds	-0-	49,987	+100%
Airport	8,960	6,860	- 23%
Irrigation	21,359	11,204	- 48%
Storm Drainage	<u>23,382</u>	<u>-0-</u>	<u>-100%</u>
	1,320,192	877,910/625,178	-34%/-53%

The budget for each department was discussed and the Council took under advisement the impact such a budget would have upon the services within Delta and requested that additional information be acquired and evaluated, in addition to the above, in preparing to provide the City Manager and department heads with the budget guidance.

Mayor Hansen asked if there were any further comments or questions or items to be discussed. There being none, Council Member David Church MOVED to adjourn. The motion was SECONDED by Council Member Craig Greathouse. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being none, she called for a vote. The motion passed unanimously. Mayor Hansen declared the meeting adjourned at 10:30 p.m.

  
RUTH HANSEN, Mayor

  
DOROTHY JEFFERY  
Delta City Recorder

MINUTES APPROVED: 3-23-87